

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 95-0387 CS**

**Controlled Substance Excise Tax**

**For Tax Period: January 26, 1994**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

**I. Controlled Substance Excise Tax – Imposition**

**Authority:** IC 6-7-3-5; IC 6-7-3-6; IC 6-8.1-5-1

Taxpayer protests the imposition of the controlled substance excise tax.

**STATEMENT OF FACTS**

Taxpayer was arrested, September 20, 1993, by the Portage Police Department for possession of marijuana. Taxpayer was assessed the controlled substance excise tax on January 26, 1994. Taxpayer protested the tax assessment and requested an administrative hearing. An administrative hearing was scheduled for February 25, 1999. Taxpayer failed to appear at the hearing. This Letter of Findings is written based on the best information available to the Department. Additional relevant facts will be presented below, as necessary.

**I. Controlled Substance Excise Tax – Imposition**

**DISCUSSION**

Indiana Code Section 6-7-3-5 states:

The controlled substance excise tax is imposed on controlled substances that are:

- (1) delivered,
- (2) possessed, or
- (3) manufactured;

in Indiana in violation of IC 35-48-4 or 21 U.S.C. 841 through 21 U.S.C. 852.

Pursuant to Indiana Code Section 6-7-3-6:

"The amount of the controlled substance excise tax is determined by:

- (1) the weight of the controlled substance. . ."

Taxpayer was arrested and the controlled substance excise tax was assessed based on 46.50 grams of marijuana.

Pursuant to IC 6-8.1-5-1(b), "The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made."

Taxpayer protested the assessment but failed to appear at the administrative hearing and present evidence that the assessment was invalid. As such, the taxpayer failed to meet his burden.

### **FINDING**

Taxpayer's protest is denied.